



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

APR 19 2004

Charles L. Whittington
President
Grammar Industries
18375 East 345 South
Grammar, IN 47236

Ref No. 04-0061

Dear Mr. Whittington:

This responds to your February 20, 2004 email to Mr. Danny Shelton of the Federal Motor Carrier Safety Administration and subsequent telephone conversation with a member of my staff, Glenn Foster, requesting clarification of the requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to shipping papers. Your questions are paraphrased and answered below.

- Q1. Is the person performing the function of an offerer responsible for providing the description of a hazardous material on the shipping paper as required by the HMR?
- A1. Yes. As required in § 172.200, each person who offers a hazardous material for transportation must describe the hazardous material on the shipping paper in the manner required by Subpart C of the HMR.
- Q2. Is the Shipper's Certification statement required on the shipping paper accompanying a cargo tank transporting hazardous waste?
- A2. Yes. As required in § 172.204, each person who offers a hazardous material for transportation shall certify that the material is offered for transportation in accordance with Subchapter C of the HMR by printing on the shipping paper containing the required shipping description the certification contained in § 172.204(a)(1) or the certification (declaration) containing the language in § 172.204(a) (2).
- Q3. Is the Environmental Protection Agency (EPA) Form 8700-22, Uniform Hazardous Waste Manifest an appropriate shipping paper as required by the HMR?
- A3. Yes. As defined in § 171.8, a shipping paper means a shipping order, bill of lading, manifest, or other shipping document serving a similar purpose and containing the information required by §§ 172.202, 172.203 and 172.204 of the HMR. In addition, as provided in § 172.205(h), a hazardous waste manifest required by 40 CFR part 262, containing all of the information required by Subpart C of the HMR, may be used as the shipping paper required by this subpart.



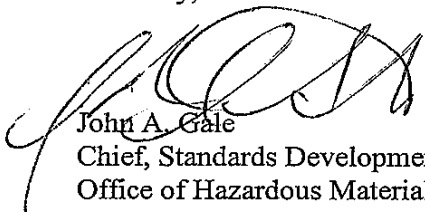
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§172.200

- Q4. Does the Generator's Certification of the Uniform Hazardous Waste Manifest meet the shipper's certification requirements of the HMR?
- A4. The Generator's Certification on a Uniform Hazardous Waste Manifest does not conform in all respects to the shipper certification statements required under the HMR. However, it is the opinion of this Office that the EPA's current Generator's Certification statement may be used in place of the shipper certification when transporting hazardous waste,
- Q5. Is a generator responsible for the preparation of the Uniform Hazardous Waste Manifest, including the commodity description and certification?
- A5. As required by § 172.205(b), the shipper (generator) must prepare the manifest in accordance with 40 CFR part 262.
- Q6. What are the fines or consequences imposed on a shipper that violates the HMR?
- A6. The compliance orders and civil penalties are found under Subpart D of the HMR.

I hope this information is helpful.

Sincerely,



John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards

Gorsky, Susan

From: Shelton, Danny <FMCSA>
Sent: Friday, February 20, 2004 2:58 PM
To: Gorsky, Susan
Subject: FW:



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As we discussed. Seems to me like pretty simple questions to me.

Thanks

-----Original Message-----

From: grammer industries [mailto:grammer@iquest.net]
Sent: Friday, February 20, 2004 2:41 PM
To: Shelton, Danny
Subject:

Mr. Danny Shelton
Hazardous Materials Specialists
Federal Motor Carrier Safety Administration
United States Department of Transportation
Washington DC 20591

Dear Mr. Shelton:

Please consider this letter as a request for interpretation with respect to specified regulations contained in the "Hazardous Materials Regulations"

(HMR) promulgated by the US DOT and enforced by both the Department's Research & Special Programs Administration and the Federal Motor Carrier Safety Administration.

Grammer Industries Inc. and Vickery Transportation (a sister company) are interstate motor carriers specializing in the transportation of both hazardous and non-hazardous materials in cargo tank motor carriers. Grammer Industries' Motor Carrier Identification Number is USDOT 184668 and Vickery Transportation is USDOT 978059. Below, I will list certain elements of the regulations in question, followed by Grammer's and Vickery's assumptions with respect to the responsibility for compliance. Please inform us if our assumptions are correct; or, if not, why not and what regulations should we reference.

This request centers on 49 CFR 172.200, 172.204(b) and 172.205.

With regard to 172.200 -- Grammer and Vickery assumes that, with respect to the "description of hazardous materials" (on shipping papers), the person performing the function of "offerer" is responsible for compliance.

With regard to 172.204(b) -- Grammer and Vickery assumes that shipping papers accompanying a cargo tank, laden with a hazardous waste (as determined and described on the shipping papers by the offerer), must contain the "shippers certification" as mandated by 49 CFR 172.204(a).

Foster
§ 172.200
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With regard to 172.205 -- Grammer and Vickery assumes the following:

1. That the so-called "Uniform Hazardous Waste Manifest" (EPA Form 8700-22) is an appropriate "shipping paper" as required by DOT regulations; and,

2. The "Generator's Certification" (item #16 on EPA Form 8700-22) meets the "shippers

certification" requirements at 172.204(b), and,

3. 40 CFR 262.20 (referenced within 172.205) places the responsibility for proper preparation of the manifest (including commodity description and certification) on the "generator" (acting in its capacity as one who "offers" hazardous waste for transportation).

I have attached 3 specific movements that have caused concern. If you need clarification please call or email me.

One additional question would be what are the fines or consequences on a shipper that violates the regulations.

Mr. Shelton, thank you for your consideration in this matter, and an expedited reply would be appreciated. Please respond that you have received this email.

Very truly yours

Charles L. Whittington
President of Grammer Industries
1-800-333-7410 or grammer@iquest.net